

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

GARY L. KISER)	
Claimant)	
VS.)	
)	Docket No. 1,029,809
TRACTOR SUPPLY COMPANY)	
Respondent)	
AND)	
)	
HARTFORD INSURANCE COMPANY OF THE MIDWEST)	
Insurance Carrier)	

ORDER

Respondent and its insurance carrier appealed the March 18, 2008, Award entered by Administrative Law Judge John D. Clark. The Workers Compensation Board heard oral argument on June 20, 2008, in Wichita, Kansas.

APPEARANCES

James B. Zongker of Wichita, Kansas, appeared for claimant. Kevin M. Johnson of Overland Park, Kansas, appeared for respondent and its insurance carrier.

RECORD AND STIPULATIONS

The record considered by the Board and the parties' stipulations are listed in the Award. By agreement of the parties, the record also includes the June 25, 2008, letter from respondent's attorney's office regarding the temporary disability benefits that were paid in this claim. That letter states temporary partial disability benefits were paid for the period of June 22, 2006, through September 15, 2006, and temporary total disability benefits were paid for the periods of January 30, 2006, through June 21, 2006; September 15, 2006, through November 10, 2006; and November 18, 2006, through February 16, 2007.¹

¹ In their submission briefs to the Judge the parties stipulated that the compensation rate was \$401.45 and further noted that \$748.05 was paid in temporary partial disability benefits.

ISSUES

This is a claim for a January 4, 2006, accident and the residual effects of the resulting inguinal hernia and repair. In the March 18, 2008, Award, Judge Clark determined claimant sustained a five percent whole person functional impairment as a result of his injuries. Moreover, the Judge awarded claimant an 87 percent permanent partial disability under K.S.A. 44-510e for a 100 percent wage loss and a 74.5 percent task loss.

Respondent and its insurance carrier contend Judge Clark erred. They contend claimant's permanent partial disability should be limited to his functional impairment rating as respondent offered claimant accommodated employment, which claimant refused. They also argue claimant failed to make a good faith effort to search for other post-injury employment. Consequently, respondent and its insurance carrier request the Board to reduce claimant's 87 percent permanent partial disability to five percent.

Claimant argues that no offer of accommodated employment was communicated to him and that any offer of employment was sent to an erroneous address. Moreover, claimant argues the purported job offer was made before claimant was given his final work restrictions and, in addition, the intended job as a cashier would not have been appropriate as he would have been forced to violate his work restrictions. Claimant also argues that he has tried to find other employment but he has been unsuccessful. Finally, claimant asserts that his ability to work is fairly limited as any type of physical activity causes significant pain as fluid fills tissue in his groin. Accordingly, claimant requests the Board to either affirm the 87 percent permanent partial disability or, if a wage is imputed, grant him a permanent partial disability of no less than 70 percent.

The principal issue in this appeal is whether claimant's permanent partial disability benefits are limited to his functional impairment rating because of his failure to respond to an offer of accommodated work. If not, the Board must also address claimant's wage loss and task loss to determine his permanent partial disability under K.S.A. 44-510e.

FINDINGS OF FACT

After reviewing the entire record and considering the parties' arguments, the Board finds and concludes:

In the March 18, 2008, Award, Judge Clark found claimant injured himself at work on January 4, 2006, when he was lifting 50-pound sacks of grain and felt a pulling and burning sensation in his abdomen and groin. That finding is not challenged on this appeal.

Claimant initially saw his family physician, Dr. Mark A. Leiker, for treatment. Dr. Leiker referred claimant to Dr. Joe Nold for a surgical evaluation. On February 6, 2006, claimant underwent surgery by Dr. Nold, who performed a left inguinal hernia repair with mesh and resected a left cord lipoma. Following surgery claimant continued to experience chronic left inguinal and left testis pain and, therefore, he was referred to other doctors for their opinions. Two of the doctors felt there was an entrapment or irritation of the ilioinguinal nerve or iliohypogastric nerve in the groin from either the surgery or the scarring that developed after the surgery.

Following surgery by Dr. Nold, claimant continued to have problems, including abdominal pain in the left pelvic area, left lower quadrant of his abdomen, and radiating pain into his testicles. And on August 10, 2006, after briefly returning to work and aggravating his symptoms,² claimant returned to Dr. Leiker, who issued “restrictions of no lifting greater than 20 pounds, work four hours a day, two hours sitting, two hours standing, and no more than five days a week.”³ Those restrictions remained in place until January 24, 2007.

In August 2006, claimant saw Dr. Diane Hunt. The next month, Dr. Hunt operated on claimant and cut the ilioinguinal and iliohypogastric nerves, which are essentially sensory nerves. Following surgery, claimant developed a seroma that had to be drained multiple times. The doctor also tried some injections along those nerves, which claimant felt did not help relieve his groin pain.

According to claimant, his left testicle “hangs in a variation from two to four inches [below the right testicle] and the left side will fill with blood or fluid and bulge itself.”⁴ Dr. Hunt referred claimant to a Dr. Gilbaugh, who claimant said checked to see if there was a way to lift the left testicle into the proper position. Claimant also saw a Dr. Cooper, who practices pain management.

Dr. Hunt ultimately released claimant from treatment on December 16, 2006, with a final diagnosis of chronic pain syndrome and probable ilioinguinal nerve damage with subsequent numbness and shooting pain into the left testis and left medial thigh. Dr. Hunt referred claimant back to Dr. Leiker for pain management and further care. On January 24, 2007, Dr. Hunt prepared a work slip that released claimant to return to work but restricted him from lifting greater than 30 pounds and further provided he should limit his lifting, bending, stooping, and squatting.

² Fevurly Depo., Ex. 2 at 5.

³ Leiker Depo. at 7, 8.

⁴ R.H. Trans. at 15.

After receiving Dr. Hunt's work restrictions, respondent's claims manager, Jason Keen, wrote claimant on February 19, 2007, advising claimant that respondent had work available that satisfied Dr. Hunt's restrictions. The letter indicated claimant would return to his assistant manager position and that he would be paid his pre-injury hourly wage. In addition, the letter indicated the position would commence on February 27, 2007, and that the offer would remain open until 5 p.m. the day before, "or unless modified by Dr. Hunt." The letter read in pertinent part:

We have received a release to limited duty work from Dr. Diane Hunt, dated 1/24/2007. We have limited duty work available for you meeting the restrictions placed by the doctor.

We are aware of and will abide by the physical limitations that the doctor has placed on your return to work as an Assistant Manager. Specifically, the limitations placed by the doctor are, "No lifting over 30 lbs, limited lifting, bending, stooping, squatting". I have provided a copy of this note for your records.

You will be paid at your pre-injury hourly wage with various hours as scheduled by the Store Manager. Please contact your Store Manager, immediately, for the specific work hours and check the posting, thereafter, on a weekly basis.

Your Assistant Manager position with light duty restrictions is located at our Wichita East store, 10011 East Kellogg, Wichita East, Kansas, 67207 and will be available starting on Tuesday, February 27, 2007 at 8:00 a.m. This light duty offer will remain open until 5:00 p.m. Monday, February 26, 2007, or unless modified by Dr. Hunt. You must contact your Store Manager, Jason Lewis at the store, between the hours of 8:00 a.m. to 5:00 pm on February 26, 2007 regarding your plans to return to work. Failure to notify us of your decision to accept the position by this date will be considered a refusal to accept this position and may be construed as a violation of the attendance policy and subject to disciplinary action. Please contact your Store Manager immediately.

To verify whether or not you will be accepting this light duty offer, please sign below and return the signed copy to your Store Manager by 5:00 p.m. on Monday, February 26, 2007.⁵

The letter indicates copies were also sent to both respondent's attorney and claimant's attorney, as well as Deborah Sublett of Concentra (who may have been claimant's medical manager).

⁵ *Id.*, Resp. Ex. 2 at 1.

On February 19, 2007, respondent's attorney also sent a facsimile to claimant's attorney stating that the doctor had released claimant to return to work and that respondent had agreed to accommodate claimant's restrictions. That facsimile read in pertinent part:

Mr. Zongker, the authorized Dr. has released your client with restrictions (see attached 1-24-07 work release). The employer has agreed to accommodate yet your client refuses to work. The restrictions, as well as my client's ability to accommodate them, has been verified[.] Temporary disability benefits are no longer payable and, more importantly, your client must report to work immediately to avoid jeopardizing his continued employment.⁶

There is no testimony in the record from any witness that substantiates the statement in the letter that claimant was refusing to work at that particular point in time.

Conversely, claimant testified that he does not recall receiving the February 19, 2007, letter. Moreover, he testified the letter was addressed to a former residence. Claimant is adamant he was not aware he was to report to work as directed in the letter and that his medical case manager neglected to advise him of that fact. Furthermore, claimant testified his attorney did not notify him that respondent had directed him to return to work.

On February 23, 2007, which was several days before respondent's offer of employment expired, claimant saw Dr. Leiker for pain in his left testicle. The doctor determined claimant had tenderness in the left cord and that his left testicle was hanging abnormally low. According to Dr. Leiker's notes from that day, the doctor gave claimant a 10-pound weight restriction and further restricted claimant from squatting, bending, and climbing. On March 19, 2007, the doctor wrote a letter to whom it may concern. That letter read as follows:

Mr. Kiser is suffering from complications associated with a left inguinal hernia and subsequent repair. He did have surgery repeated because of recurrent pain which radiated up into his abdomen and into his left testicle and left thigh. He is also experiencing erectile dysfunction, which may be a complication of previous surgery. A nerve block was attempted and provided some temporary relief until he did some heavy lifting. After this, pain returned and he is having problems almost constantly.

Gary has apparently sustained damage to his cremasteric reflex or the muscle to his left testicle. He has problems sitting due to pain from his low-hanging left testicle. He may benefit from reconstructive surgery which could alleviate some of this pain.

⁶ *Id.*, Resp. Ex. 3.

Currently I have placed Gary on a 10 lb weight restriction. He is also restricted from bending, squatting or climbing.

I hope this information is helpful.⁷

The record does not indicate when respondent learned of claimant's new restrictions. Moreover, nothing in either Dr. Leiker's February 23, 2007, office notes or his March 19, 2007, letter indicates the doctor modified claimant's restrictions merely upon claimant's request as respondent has argued. Dr. Leiker last saw claimant in mid-October 2007. Claimant's physical condition had not changed. Accordingly, the doctor did not modify claimant's restrictions.

In the meantime, on March 14, 2007, respondent wrote a letter to claimant that stated respondent would "proceed with processing your administrative termination from the Company effective February 23, 2007."⁸ There is no explanation in the record why the date of claimant's termination falls before the date claimant was given to report to work. The letter also advised claimant that information regarding insurance benefits through COBRA would be sent later. Claimant was not certain he received that letter but he admits receiving a letter from his medical case manager that indicated respondent was "going to end my insurance and I was going to go on COBRA."⁹

Jason Lewis, respondent's former store manager, testified he attempted to reach claimant by telephone but was unsuccessful. Mr. Lewis, who believed the extent of claimant's injury was a strained groin muscle, testified he left a message for claimant that his restrictions could be accommodated. Unfortunately, the record does not indicate when this alleged telephone call occurred. Mr. Lewis acknowledged he did not speak to claimant after calling as claimant allegedly spoke with his then-assistant manager, Donna O'Gorman. But Ms. O'Gorman testified she does not recall speaking to claimant during the period in question. In addition, Mr. Lewis' testimony is contradicted by respondent's March 14, 2007, letter to claimant that stated respondent had not heard from claimant.

At his attorney's request, claimant was evaluated by Dr. Pedro A. Murati. The doctor examined claimant on March 15, 2007, and noted claimant's chief complaints were abdominal pain radiating into his left testicle and penis, pain in his left thigh and buttocks, erectile dysfunction, and swelling and soreness in his right groin. Dr. Murati diagnosed

⁷ Leiker Depo., Ex. 3.

⁸ R.H. Trans., Resp. Ex. 4.

⁹ *Id.* at 32, 33, 34, 35.

post hernia repair with causalgia of the genitofemoral and ilioinguinal nerves. The doctor recommended the following restrictions in an eight-hour day:

[O]nly occasional sitting, standing and walking; no bending, crouching and stooping; rarely stairs; no ladders, squat and crawl; occasional drive; no repetitive left foot controls; and lift/carry push/pull to 10 pounds occasionally, five pounds frequently; and alternate sit, stand, and walk as needed.¹⁰

Interestingly, the history recorded by Dr. Murati at the March 15, 2007, examination indicates claimant told the doctor he was still employed with respondent but not working at that particular time. But when claimant met with labor market expert Jerry D. Hardin on May 15, 2007, claimant advised Mr. Hardin that he had been fired for missing too much work because of his medical restrictions.

At respondent's request, Dr. Chris D. Fevurly, who is board certified in occupational medicine, examined claimant in mid-December 2007. Dr. Fevurly opined that claimant reached maximum medical improvement in December 2006, when Dr. Hunt released him from her care. Because claimant has only subjective pain complaints and no objective findings, Dr. Fevurly concluded claimant needed no permanent work restrictions or limitations. Dr. Fevurly stated, in part:

Well, you know, there's little doubt, and he's shown in the past that he's unable to tolerate increased activity, by complaint of pain. That doesn't mean that there's any danger or risk for him to perform those activities. He has to decide whether it's worth the -- worth it to him to have this discomfort or the reported increase in the discomfort and perform the activities that are desired.¹¹

Accordingly, Dr. Fevurly determined claimant had sustained no task loss from his January 2006 injury. Nonetheless, Dr. Fevurly concluded it was reasonable for claimant to continue taking neuroleptic pain medications.

At the October 2007 regular hearing claimant described his present symptoms when he performs physical activity. On a scale of one to 10, claimant testified he constantly experiences pain at the level of six. But bending or lifting motions increase claimant's pain level to eight or nine and causes his left testicle to swell with either blood or fluid. The resulting burning and stinging pain radiates down his abdomen and down his inner thigh and throughout his groin. Moreover, claimant contends that since his surgeries he has

¹⁰ Murati Depo. at 8.

¹¹ Fevurly Depo. at 30.

been unable to obtain or maintain an erection. Dr. Leiker described claimant's ongoing problem, as follows:

There is some herniation of tissue, which fills with fluid and puts pressure on the inguinal nerve. He has an apparent nerve entrapment and also his -- the muscle for his left testicle does not pull up into the canal and so it's constantly down in his -- down into his clothing.¹²

The record fails to establish that respondent offered claimant a job after respondent learned of the restrictions Dr. Leiker placed on claimant on February 23, 2007.

Functional impairment

Dr. Murati and Dr. Fevurly provided their opinion of claimant's permanent impairment as measured by the fourth edition of the *AMA Guides*.¹³ Dr. Murati concluded claimant had a five percent whole person impairment for the loss of sensation along the genitofemoral and ilioinguinal nerve distributions and another five percent whole person impairment for erectile dysfunction. Dr. Murati felt claimant's erectile dysfunction, which claimant has experienced since his surgery, may be caused by the pain that claimant now experiences. In all, Dr. Murati believed claimant had sustained a 10 percent whole person functional impairment due to his January 2006 accident and resulting surgery.

On the other hand, Dr. Fevurly determined claimant had a seven percent impairment to his left lower extremity, which converted to a three percent whole person impairment, for a dysesthesia in the femoral nerve distribution without motor deficit. Dr. Fevurly did not believe the erectile dysfunction was related to claimant's accident at work.

Dr. Leiker was not asked to rate claimant's permanent impairment. Nonetheless, the doctor did opine that claimant's injury may have contributed to his erectile dysfunction. Also, the doctor surmised that an erection could cause pain and, thus, result in the problem claimant presently encounters.

The Board finds claimant has sustained a five percent whole person functional impairment for the injury he sustained from his January 2006 accident. The Board specifically finds claimant has failed to prove his erectile dysfunction is related to the January 2006 accident. Dr. Fevurly did not relate the condition to the accidental injury and Dr. Murati and Dr. Leiker could only state that the condition may be related to claimant's

¹² Leiker Depo. at 10.

¹³ American Medical Ass'n, *Guides to the Evaluation of Permanent Impairment* (4th ed.). All references are based upon the fourth edition of the *Guides* unless otherwise noted.

accident or resulting surgery. In short, the evidence fails to persuade the Board that claimant is entitled to compensation for the erectile dysfunction.

CONCLUSIONS OF LAW

Because claimant's injury is not listed in the schedule of K.S.A. 44-510d, claimant's permanent partial disability benefits are determined by the formula set forth in K.S.A. 44-510e. That statute provides, in part:

The extent of permanent partial general disability shall be the extent, expressed as a percentage, to which the employee, in the opinion of the physician, has lost the ability to perform the work tasks that the employee performed in any substantial gainful employment during the fifteen-year period preceding the accident, averaged together with the difference between the average weekly wage the worker was earning at the time of the injury and the average weekly wage the worker is earning after the injury. In any event, the extent of permanent partial general disability shall not be less than the percentage of functional impairment. . . . An employee shall not be entitled to receive permanent partial general disability compensation in excess of the percentage of functional impairment as long as the employee is engaging in any work for wages equal to 90% or more of the average gross weekly wage that the employee was earning at the time of the injury. (Emphasis added.)

But that statute must be read in light of *Foulk*¹⁴ and *Copeland*.¹⁵ In *Foulk*, the Kansas Court of Appeals held that a worker could not avoid the presumption against work disability as contained in K.S.A. 1988 Supp. 44-510e (the predecessor to the above-quoted statute) by refusing to attempt to perform an accommodated job, which the employer had offered and which paid a comparable wage. In *Copeland*, the Kansas Court of Appeals held, for purposes of the wage loss prong of K.S.A. 44-510e (Furse 1993), that a worker's post-injury wages should be based upon ability rather than actual wages when the worker fails to make a good faith effort to find appropriate employment after recovering from his or her injury.¹⁶

¹⁴ *Foulk v. Colonial Terrace*, 20 Kan. App. 2d 277, 887 P.2d 140 (1994), *rev. denied* 257 Kan. 1091 (1995).

¹⁵ *Copeland v. Johnson Group, Inc.*, 24 Kan. App. 2d 306, 944 P.2d 179 (1997).

¹⁶ An analysis of a worker's good faith effort to find appropriate employment after recovering from the work injury for purposes of the wage loss prong of K.S.A. 44-510e may no longer be applicable as the Kansas Supreme Court has recently held that statutes must be interpreted strictly and nothing should be read into the language of a statute as was done in *Foulk* and *Copeland*. See *Casco v. Armour Swift-Eckrich*, 283 Kan. 508, 154 P.3d 494, *reh'g denied* (2007) and *Graham v. Dokter Trucking Group*, 284 Kan. 547, 161 P.3d 695 (2007).

If a finding is made that a good faith effort has not been made, the factfinder *[sic]* will have to determine an appropriate post-injury wage based on all the evidence before it, including expert testimony concerning the capacity to earn wages. . . .¹⁷

Respondent and its insurance carrier contend claimant's permanent disability benefits should be limited to his five percent functional impairment rating as claimant refused to return to work as directed in respondent's February 19, 2007, letter to claimant. The Board disagrees.

The evidence fails to establish that claimant refused to return to work for respondent. Respondent's February 19, 2007, letter to claimant indicated that the offer to accept claimant back to work was to remain open unless Dr. Hunt modified claimant's work restrictions:

This light duty offer will remain open until 5:00 p.m. Monday, February 26, 2007, or unless modified by Dr. Hunt.¹⁸

But by February 19, 2007, Dr. Hunt was no longer claimant's authorized doctor as she had referred claimant back to Dr. Leiker for ongoing medical treatment. And when claimant met with Dr. Leiker on February 23, 2007, which was before the letter's deadline, the doctor modified claimant's restrictions. The record fails to establish that respondent offered claimant an accommodated position under his final work restrictions and limitations. Moreover, there is no evidence in the record that respondent offered claimant an accommodated position once it learned there was a question of whether claimant received the February 19, 2007, letter.

The Board is unable to find that claimant refused to report to work or that he was attempting to manipulate his workers compensation claim.

Wage loss

Nonetheless, claimant has failed to prove that he has made a good faith effort to find other employment. According to the records claimant introduced into the record, when he testified at the October 2007 regular hearing he had contacted approximately 20 potential employers. Claimant has failed to establish when he allegedly made those contacts, whom he spoke to, or the responses he received. Claimant allegedly contacted some of the potential employers multiple times but he did not record the dates that he followed up. When respondent and its insurance carrier's vocational expert,

¹⁷ *Copeland*, 24 Kan. App. 2d at 320.

¹⁸ R.H. Trans., Resp. Ex. 2 at 1.

Mary Titterington, met with claimant in September 2007, he did not have an updated resume and, according to Ms. Titterington, was only spending five or six hours a week looking for a new job. In short, the Board is not persuaded that between his release to return to work in early 2007 and his regular hearing in October 2007 claimant made a good faith effort to find appropriate employment. Consequently, a post-injury wage must be imputed for purposes of the permanent partial disability formula.

According to Mr. Hardin, under the restrictions from both Dr. Leiker and Dr. Murati, claimant is primarily limited to sedentary type work and may be able to perform some retail sales, something administrative or something over the telephone. Mr. Hardin felt claimant retained the ability to earn about \$300 per week. Conversely, Ms. Titterington believed that claimant could work as an assistant manager, assembler, insurance salesman, car salesman, equipment salesman, or rental manager. According to Ms. Titterington, claimant could earn \$30,000 to \$45,000 (and as high as \$65,000) per year as a car salesman or \$12 to \$15 per hour in other commission sales. And conservatively, Ms. Titterington felt claimant could earn at least \$7.50 to \$12 or so per hour working such jobs as a gate tender, security monitor, self-service gas station cashier, receptionist, or someone taking orders.

Considering the opinions of both Mr. Hardin and Ms. Titterington, the Board finds claimant retains the ability to earn \$350 per week. Comparing \$350 to the pre-injury wage of \$602.15 yields a wage loss of 42 percent.

Task loss

Despite claimant's ongoing pain and his continuing need for pain medications, Dr. Fevurly did not believe claimant needed any work restrictions or limitations. Accordingly, claimant would have no task loss considering Dr. Fevurly's opinions. Conversely, both Dr. Leiker and Dr. Murati adopted the opinion of claimant's labor market expert, Jerry D. Hardin, and determined claimant had lost the ability to perform 83 percent of the tasks that he performed in the 15-year period before his January 2006 accident. The Board finds claimant has a task loss of 83 percent.

Work disability

Permanent partial disability under K.S.A. 44-510e requires the wage loss to be averaged with the task loss. In this instance that yields a 62.5 percent permanent partial disability. Accordingly, the March 18, 2008, Award should be modified to reduce the permanent partial disability from 87 percent to 62.5 percent.

AWARD

WHEREFORE, the Board modifies the March 18, 2008, Award as follows:

Gary L. Kiser is granted compensation from Tractor Supply Company and its insurance carrier for a January 4, 2006, accident and resulting disability. Based upon an average weekly wage of \$602.15, Mr. Kiser is entitled to receive the following disability benefits:

For the periods from January 30, 2006, through June 21, 2006; September 16, 2006, through November 10, 2006; and November 18, 2006, through February 16, 2007, Mr. Kiser is entitled to receive 41.43 weeks of temporary total disability benefits at \$401.45 per week, or \$16,632.07.

Mr. Kiser is entitled to receive \$748.05 in temporary partial disability benefits for the period from June 22, 2006, through September 15, 2006.

Commencing February 17, 2007, Mr. Kiser is entitled to receive 205.80 weeks of permanent partial general disability benefits at \$401.45 per week, or \$82,619.88, for a 62.5 percent permanent partial general disability.

The total award is not to exceed \$100,000.

As of July 15, 2008, Mr. Kiser is entitled to receive 41.43 weeks of temporary total disability compensation at \$401.45 per week in the sum of \$16,632.07, plus \$748.05 in temporary partial disability benefits, plus 78.14 weeks of permanent partial general disability compensation at \$401.45 per week in the sum of \$31,369.30, for a total due and owing of \$48,749.42, which is ordered paid in one lump sum less any amounts previously paid. Thereafter, the remaining balance of \$51,250.58 shall be paid at \$401.45 per week until paid or until further order of the Director.

The record does not contain a written fee agreement between claimant and his attorney. K.S.A. 44-536(b) requires the written contract between the employee and the attorney be filed with the Director for review and approval. Should claimant's counsel desire a fee in this matter, counsel must submit the written agreement to the Judge for approval.

The Board adopts the remaining orders set forth in the Award to the extent they are not inconsistent with the above.

IT IS SO ORDERED.

Dated this ____ day of July, 2008.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

CONCURRING AND DISSENTING OPINION

The undersigned respectfully disagree with the majority. Claimant did not have erectile dysfunction before the injuries he sustained at work. As indicated above, Dr. Leiker believed the erectile dysfunction problem may be caused by the pain claimant experiences from his injuries. That opinion is credible. Accordingly, the erectile dysfunction is related to claimant's work-related accidental injury and we would grant claimant both medical benefits and disability benefits for that condition.

BOARD MEMBER

BOARD MEMBER

c: James B. Zongker, Attorney for Claimant
Kevin M. Johnson, Attorney for Respondent and its Insurance Carrier
John D. Clark, Administrative Law Judge